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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA, BUTTE DIVISION**

\* \* \* \* \*

SANDRA FIKANI,	)	
	)	<b>CV 19-64-BU-SEH</b>
Plaintiff,	)	
	)	
v.	)	
	)	<b>FIRST AMENDED</b>
UNITED STATES OF AMERICA and	)	<b>COMPLAINT</b>
C&W FACILITY SERVICES INC.	)	
	)	
Defendants.	)	

COMES NOW the above-named Plaintiff, by and through her attorneys, and complains and alleges as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff Sandra Fikani is a citizen and resident of Belgrade, Gallatin County, Montana.
2. This Court has jurisdiction over this case pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, *et seq.*, in that the claim arises from the Government's

conduct and/or its employees conduct in negligently maintaining its property at the United States Post Office, located in Belgrade, Montana. The negligent acts and omissions that are the subject of this action were committed by the Government's agents and employees, while acting within the course and scope of their employment. This Court has exclusive jurisdiction over tort claims brought against the United States, pursuant to 28 U.S.C. § 1346(b).

3. Plaintiff's claims were filed in writing with the United States Postal Service (USPS) on September 14, 2018. On September 30, 2019, the USPS denied Plaintiff's claims. Accordingly, Plaintiff has exhausted her administrative remedies.

4. The acts and omissions giving rise to this claim occurred at the United States Post Office, located in Belgrade, Gallatin County, Montana, which is within the Butte Division. Venue is proper in the Butte Division pursuant to 28 U.S.C. § 1402(b) and Local Rule 3.2.

5. C&W Facility Services Inc, (C&W) is a Massachusetts Corporation with its principle place of business in Auburndale, Massachusetts. C&W does or did business in Montana including providing cleaning services at the Belgrade Post Office.

6. This Court has subject matter jurisdiction over C&W under 28 U.S.C.

§ 1332 on the basis of diversity of citizenship and on the ground that the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest.

7. The Court has personal jurisdiction over Defendant C&W because Defendant does business in Montana and Plaintiff's claim arise from Defendant C&W's acts or omissions that occurred in Belgrade, Gallatin County, Montana.

**FACTS COMMON TO ALL CLAIMS**

8. Plaintiff realleges the allegations contained in the preceding paragraphs and incorporates them here by reference.

9. Defendant C&W Facility Services Inc. had a contract with Defendant USPS to provide cleaning services at the Belgrade Post office. Plaintiff discovered this when USPS disclosed this to Plaintiff in its Preliminary Pretrial Statement on April 10, 2020.

10. Upon information and belief, early in the morning of September 24, 2016, government employees of the Belgrade United States Post Office and/or employees of C&W Services Inc., cleaned the floors in the entry to the building.

11. The employees left a puddle of water on the floor and did not put up any wet floor signs or warnings.

12. Ms. Fikani entered the building and walked across the floor toward her post office box to pick up her mail. Ms. Fikani's foot slipped on the puddle of

water and she fell to the hard, linoleum floor. Ms. Fikani was unable to get up and unable to move her right leg, she called for help.

13. Ms. Fikani was taken by ambulance to Bozeman Deaconess Hospital where she was diagnosed with a closed right hip fracture and she underwent an open reduction and internal fixation. The surgeon inserted a nail and screw into Ms. Fikani's broken femur.

14. Following surgery, Ms. Fikani was transferred to Gallatin County Rest Home for rehabilitation and was able to return home on October 25, 2016.

**COUNT ONE**  
**(NEGLIGENCE)**

15. Plaintiff realleges the allegations contained in the preceding paragraphs and incorporates them here by reference.

16. The USPS failed to maintain its premises in a reasonably safe condition and this failure constitutes negligence.

17. The USPS failed to properly train, hire, and supervise its employees and/or contractors for work at the Belgrade Post Office. This failure constitutes negligence.

18. Defendants failed to recognized the public safety risk of the wet floor at the Belgrade Post Office. This failure constitutes negligence.

19. C&W failed to perform its contractual cleaning duties in a reasonably

safe manner. It left a puddle of water on the floor after cleaning and failed to place signs warning the public of the wet floor. This failure constitutes negligence.

20. The negligence of Defendants was a substantial contributing factor and the legal cause of the injuries to Plaintiff Sandra Fikani. Ms. Fikani is entitled to recover damages as allowed by law.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury for claims against defendant C&W.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff seeks the following relief:

1. Judgment against the Defense to compensate her for injuries and losses as described in the preceding paragraphs and as allowed by law;
2. For attorney fees and costs of this action;
3. For such relief as the Court deems just.

DATED this 7<sup>th</sup> day of May, 2019.

/s/ Jonathan M. Cok  
Jonathan M. Cok  
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Attorneys for Plaintiff